

# Late Backup

## Watershed Protection Department 06/26/2014-Late Backup Item #113

**Watershed Protection Department analysis of recommended changes to Lake Austin shoreline and dock development ordinance prepared by Friends of Lake Austin (06/26/2014)**

1. FOLA recommends removal of "non-mechanized" from multiple subsections relating to pedestrian access facilities in the shoreline setback and appurtenances to docks (Part 2, 25-2-551; Part 3, 25-2-893)

**WPD response:** WPD and the Planning and Development Review Department currently interpret "pedestrian access facilities" to be non-mechanized facilities like stairs, ramps, and sidewalks. WPD and PDR recommend inclusion of "non-mechanized" to further clarify current policy. Removal of "non-mechanized" from these subsections of the proposed ordinance would not only have no impact on the ability of applicants to install mechanized facilities like trams, but also perpetuate ambiguity in current code.

**Lake Austin Task Force recommendation:** "Review how terms are defined so that they are clear, consistent and workable."

2. FOLA recommends further modifying the proposed amnesty for existing docks to allow docks that were illegally constructed to keep illegal modifications in perpetuity (Part 4, 25-2-963).

**WPD Response:** Allowing structures that were illegally constructed to be maintained in perpetuity is wholly inconsistent with existing City code and policies and disincentivizes compliance with City codes. Allowing illegal structures to remain over Lake Austin perpetuates the potential for contamination of Austin's drinking water supply from illicit leaking wastewater infrastructure, etc.

**Lake Austin Task Force Recommendation:** "...If your dock was constructed after 1981, it must have a permit."

3. FOLA recommends that docks constructed prior to 1997 do not have to provide proof of legal construction in order to maintain or modify non-complying structures (Part 4, 25-2-963).

**WPD Response:** Aerial imagery and electronic permit records are sufficient to identify if docks were constructed legally after 1984. WPD recommends using use of 1984 as the benchmark for establishing amnesty for existing docks, which is only 3 years different from the 1981 recommendation from the Lake Austin Task Force, versus a date that is 16 years later than the task force recommendation.

**Lake Austin Task Force Recommendation:** "...If your dock was constructed after 1981, it must have a permit."

4. FOLA recommends removal of subsection 25-2-1177(C) (Part 12) that states the City does not waive any rights with respect to easements or ownership of the lake bed.

**WPD Response:** The proposed ordinance allows for any qualifying lakeside property owner to have or build a dock regardless of underlying land ownership. Establishing underlying land ownership for all current and future docks would be a prohibitively difficult process. Subsection 25-2-1177(C) provides fair notice to dock owners that the City is not waiving any rights to underlying easement or land ownership in the future. Removal of subsection 25-2-1177(C) does not change the ownership rights of the City, and private citizens cannot adversely possess property against the City. Removal of Subsection 25-2-1177(C) would not alter the intent or implementation of the proposed revisions to 25-2-1177.

**Lake Austin Task Force Recommendation:** "Investigate the possibility of establishing license fees for private docks on public property."

5. FOLA recommends allowing illegally constructed docks to be maintained under a site plan exemption, and allow for structural modifications to docks to be conducted under a site plan exemption (Part 15, 25-5-2).

**WPD Response:** The Lake Austin Task Force specifically recommended that site plan exemptions be limited to non-structural repairs only. WPD and PDR staff agree with the task force recommendation. Work on structural components of docks has a high potential to adversely impact the lake and riparian areas if not conducted properly. A site plan is necessary for WPD and PDR staff to fully evaluate the proposed work, and ensure compliance with code to limit adverse impacts to the lake and shoreline.

**Lake Austin Task Force Recommendation:** "Modification, maintenance, repair, replacement or reinforcement of boat docks under a site plan exemption should be limited to non-structural changes to existing components...The following changes are NOT allowed: ...changes to structural components"